

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

ELBERT L. ANDERSON,

Plaintiff,

v.

TROY L. WHITE,

Defendant.

Case No. 1:23-cv-1214

HON. ROBERT J. JONKER

**ORDER APPROVING AND ADOPTING REPORT AND RECOMMENDATION**

The Court has reviewed Magistrate Judge Kent’s Report and Recommendation, (ECF No. 6), and Plaintiff’s Objection to the Report and Recommendation, (ECF No. 8). Under the Federal Rules of Civil Procedure, where, as here, a party has objected to portions of a Report and Recommendation, “[t]he district judge has a duty to reject the magistrate judge’s recommendation unless, on *de novo* reconsideration, he or she finds it justified.” 12 C. WRIGHT & A. MILLER, FEDERAL PRACTICE AND PROCEDURE § 3070.2 (3d ed. Apr. 2023 update). Specifically, the Rules provide that:

The district judge must determine *de novo* any part of the magistrate judge’s disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.

FED R. CIV. P. 72(b)(3). *De novo* review in these circumstances requires at least a review of the evidence before the Magistrate Judge. *Hill v. Duriron Co.*, 656 F.2d 1208, 1215 (6th Cir. 1981). The Court has reviewed *de novo* the claims and evidence presented to the Magistrate Judge; the Report and Recommendation itself; and Plaintiff's objections. After its review, the Court finds the Magistrate Judge's Report and Recommendation is factually sound and legally granted.

Plaintiff was permitted to proceed *in forma pauperis*. (ECF No. 4). After conducting the requisite review under 28 U.S.C. § 1915(e)(2), the Magistrate Judge carefully and thoroughly considered the record and the governing law. The Magistrate Judge recommends that the Court dismiss the Complaint *sua sponte* for lack of subject matter jurisdiction. (ECF No. 6 at PageID.21–23). Alternatively, the Magistrate Judge recommends dismissing the Complaint for failure to state a claim on which relief may be granted. (*Id.* at PageID.24–25). The Magistrate Judge properly analyzed Plaintiff's claims. Plaintiff has not established subject matter jurisdiction, but even if he had, Plaintiff's Complaint contains only “an unadorned, the-defendant-unlawfully-harmed me accusation” that is insufficient to state a claim for relief. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). Plaintiff's Objections—which are nothing more than repeated assertions that he disagrees with the Magistrate Judge's findings—have no impact on the fundamental analysis.

**ACCORDINGLY, IT IS ORDERED:**

1. The Report and Recommendation of the Magistrate Judge, (ECF No. 6), is **APPROVED AND ADOPTED** as the opinion of the Court.
2. Plaintiff's Complaint is **DISMISSED**, and this matter is **TERMINATED**.
3. For the same reasons that the Court dismisses Plaintiff's Complaint, the Court discerns no good-faith basis for an appeal within the meaning of 28 U.S.C. § 1915(a)(3). *See McGore v. Wrigglesworth*, 114 F.3d 601, 611 (6th Cir. 1997).

**IT IS SO ORDERED.**

Dated: December 20, 2023

/s/ Robert J. Jonker  
ROBERT J. JONKER  
UNITED STATES DISTRICT JUDGE